

## PROCEEDINGS OF THE STURGIS CITY COUNCIL

The Common Council of the City of Sturgis met in regular session starting at 5:59 p.m. on Monday, June 20, 2016 at the Erskine Building. Present: Mayor Mark Carstensen, Alderpersons Jason Anderson (enters at 6:14pm), Mike Bachand, Rod Bradley, Tony Dargatz, Steve Keszler, Adam Martin, David Martinson and Ronald Waterland. Also present: City Manager Daniel Ainslie and City Attorney Greg Barnier. Absent: None.

Motion by Keszler, second by Martinson and carried with all members present voting yes to approve the agenda with the amendment to d. under Public Hearings to read that the Special Events license for Samson's Corner dates will be August 5<sup>th</sup> and 6<sup>th</sup>.

Motion by Waterland, second by Dargatz and carried with all members present voting yes to go into executive session for one legal case, two contracts and two personnel at 6:01 pm.

Motion by Martin, second by Waterland and carried with all members present voting yes to return to regular session at 6:27 pm.

Mayor Mark Carstensen led everyone in the Pledge of Allegiance.

Motion by Martin, second by Waterland and carried with all members present voting yes to approve two sponsorship contracts with Brown-Forman, Corp and Fontem US, Inc.

### Announcements:

- A special Council meeting will be held Monday, June 27<sup>th</sup> at the Community Center Theater at 5:30 to go over the Cities five-year infrastructure plan.
- The next regular Council meeting will be held on Tuesday, July 5<sup>th</sup> due to the July 4<sup>th</sup> holiday.
- The Super Moto will be held on July 1<sup>st</sup> and 2<sup>nd</sup> and fireworks on July 2<sup>nd</sup> if the weather condition permits. There will be an announcement the week of the 26th if fireworks will be cancelled due to the dry conditions.
- The Camaro Rally will be held on June 23-26.

### Informational Reports:

- Library Board – 5/25/16 Minutes
- Park Board – 5/12/16 Minutes
- Forestry Board – 3/3/16 Minutes

### City Manager Ainslie reported:

- The budget numbers for the end of May 2016 are as follows: General Fund is at 39%; SST 39%; Capital Improvement 59%; Liquor 28%; Water 36%; Wastewater 22%; Sanitation 36% and Ambulance 39%.
- Payroll Changes – within budget: Street Dept – seasonal – Matt Nelson - \$9.00 (rally: \$11.00). Park Dept – seasonal – Jacob Berghorst - \$8.75. Liquor Store – Assistant Manager – David Klusak - \$15.15. Police Dept – Patrol Officer – Jameson Tebben - \$18.27 (\$19.59 when certified) Ambulance Dept – Supervisor – Tanner Walz - \$50,000/yr.

Motion by Waterland, second by Martin and carried with all members present voting yes to approve the following items on the consent calendar:

- a. Consideration to approve the minutes from the June 3, 2016 special council meeting and the June 6, 2016 regular council meeting.
- b. Consideration to approve setting a public hearing for July 5, 2016 for the Spirit of Sturgis Vintage Motorcycle Rally on August 26-28, 2016 for street closure and open container.
- c. Consideration to approve setting a public hearing for July 5, 2016 for the Chamber of Commerce on August 25, 2016 at Harley-Davidson Rally Point for street closure and open container.

Motion by Martin, second by Martinson and carried with Anderson, Bradley, Dargatz, Keszler, Martin, Martinson and Waterland voting yes, Bachand voting no, Carstensen abstaining, to approve the following claims:

**WAGES** – Ambulance \$32,476.95; Attorney \$3584.59; Auditorium \$180.27; Buildings \$1080.27; Cemetery \$3182.90; City Manager \$4742.08; Community Center \$10,277.80; Finance Office \$8765.19; Fire Department \$102.75; Human Resource \$2756.05; Library \$8480.47; Liquor \$7263.45; Mayor and Council \$3554.50; Parks \$15,991.56; Planning & Permitting \$4459.46; Police \$38,865.61; Rally \$3913.37; Recreation \$3730.19; Sanitary Service \$14,153.97; Streets \$13,803.45; Wastewater \$8472.15; Water \$14,609.87; Federal Withholding \$20,064.71; FICA \$14,861.44.

**GENERAL** – Amcon Distributing, \$287.09, resale; Twyla Barden, \$700.00, prof fee; Belnick, Inc., \$19,057.78, sup; Bierschbach Equipment, \$2,772.00, sup; Black Hills Chemical, \$377.70, sup; Black Hills Door Systems, \$229.00, rep; Black Hills Energy, \$16,708.01, util; Black Hills Urgent Care, \$350.00, prof fee; Brosz Engineering, \$2,950.00, prof fee; Fay Bueno, \$25.00, ins; Campbell Supply, \$1,468.71, sup; Mark Carstensen, \$300.00, other; Caselle, \$1,479.00, prof fee; CBH, \$6,796.21, sup; Chain Saw Center, \$12.35, rep; Coca Cola, \$1,159.00, resale; Kyle Cox, \$80.00, prof fee; Dakota Extinguisher & Safety, \$434.00, sup; Ecolab Pest Eliminator, \$370.67, rep; Epic Outdoor Advertising, \$1,850.00, pub; First Interstate MasterCard, \$6,576.05, travel; First Western Insurance, \$100.00, ins; Five Rocks, \$62,500.00, rent; Heartland Paper, \$30.80, sup; Inland Truck Parts, \$191.40, rep; Jacobs Auto Repair, \$143.88, rep; Jenner Equipment, \$117.65, rep; KT Connections, \$952.28, prof fee; Tyler Kaitfors, \$25.00, ins; Kennedy's Window Cleaning, \$989.00, rep; Ketel Thorstenson, \$5,000.00, prof fee; LPN Holdings, \$5,218.11, sup; Lynn's Dakota Mart, \$264.10, sup; Meade County Auditor, \$8,348.80, other; Meade County Times Tribune, \$487.06, pub; Menard's, \$254.84, sup; Midco Business, \$41.76, util; Mobile Mini, \$88.96, sup; MDU, \$3,142.02, util; Motionsoft, \$450.00, prof fee; Neve's Uniforms, \$307.75, sup; Newman Traffic Signs, \$98.88, sup; Northern Hills Vet Clinic, \$852.56, prof fee; NVB Playgrounds, \$132.00, sup; Owens Interstate Sales, \$664.98, rep; Park Avenue Car Wash, \$43.20, sup; Pizza Hut, \$53.00, other; Pool & Spa Center, \$33.05, sup; Purchase Power, \$500.00, sup; Push-Pedal-Pull, \$360.00, rep; Ramkota Hotel, \$1,049.90, travel; Rapid City Journal, \$99.80, pub; Rasmussen Mechanical Services, \$814.37, rep; Regional Health, \$458.33, prof fee; Robert Sharp & Associates, \$1,451.40, pub; Rockingtree Floral, \$356.88, sup; Roger Frye's Paint & Supply, \$1,454.46, rep; Rushmore Office Supply, \$1,876.66, sup; Sanitation Products, \$729.52, rep; SD Municipal League, \$50.00, travel; SD Secretary of State, \$60.00, ins; Servall Towel & Linen, \$464.77, sup; Shopko Stores, \$95.76, sup; Jesse Stricherz, \$140.00, prof fee; Sturgis Guns & Motorcycles, \$55.46, sup; Sturgis NAPA, \$1,072.29, sup; Sturgis Sawmill, \$41.64, rep; Sturgis Veterinary Hospital, \$1,010.00, prof fee; Sturgis Volunteer Fire Dept, \$729.33, travel; Theatrical Services, \$174.90, sup; Tim's T's, \$554.74, sup; Town-n-Country Plumbing, \$102.09, sup; Trugreen, \$1,073.65, sup; Twilight First Aid & Safety, \$179.70, sup; Vast Business, \$2,053.94, util; Weimer's Diner & Donuts, \$15.60, sup; West Payment Center, \$160.32, prof fee.

**SPECIAL SALES TAX** – Chamber of Commerce, \$3,500.00.

**CAPITAL IMPROVEMENTS** – Advanced Engineering & Environmental, \$21,600.00; Dakota Barricade, \$12,751.60; Fourfront Design, \$2,942.03; Western Hills Painting, \$23,664.00.

**BUSINESS IMPROVEMENT DISTRICT** – Black Hills Energy, \$150.75, util; First Interstate Bank MasterCard, \$177.05, pub; MDU, \$12.97, util; Robert Sharp & Associates, \$170.00, pub; Vast Business, \$312.30, util.

**LIQUOR** – Arctic Glacier USA, \$325.18, resale; Black Hills Asphalt, \$433.67, rep; Black Hills Urgent Care, \$30.00, prof fee; Caselle, \$2,160.00, sup; Change Banks, \$1,000.00; Coca Cola, \$578.25, resale; Eagle Sales of the BH, \$14,170.83, resale; Ecolab Pest eliminator, \$110.75, rep; First Interstate Bank MasterCard, \$553.14, rep; Fisher Beverage, \$6,746.10, resale; Johnson Western Wholesale, \$13,265.01, resale; KT Connections, \$67.93, prof fee; M&B Enterprises, \$290.70, resale; MDU, \$25.39, util; Pepsi Cola, \$431.70, resale; Regional Health, \$25.00, prof fee; Republic Beverage, \$13,078.99, resale; Rushmore Office Supply, \$124.50, sup; Schade Vineyard, \$264.00, resale; Servall, \$269.17, sup; Shopko Stores, \$11.99, rep; The Homeslice Group, \$6,314.00, pub; Vast, \$337.40, util.

**WATER** – Black Hills Energy, \$16,847.01, util; Black Hills urgent Care, \$40.00, prof fee; First Interstate Bank MasterCard, \$85.98, sup; Mobile Mini, \$44.48, sup; MDU, \$120.57, util; Regional Health, \$66.67, util; SD DENR, \$20.00, prof fee; Vast Business, \$138.78, util.

**WASTEWATER** – Advanced Engineering & Environmental, \$3,590.00, cap imp; Campbell Supply, \$99.69, rep/ Crossroads Hotel, \$91.99, travel; Dakota Extinguisher & Safety, \$434.00, sup; Farm Service & Repair, \$50.00, rep; First Interstate Bank MasterCard, \$198.43, travel; KT Connections, \$67.93, prof fee; Nold Excavating, \$3,060.00, cap imp; Pete Lien & Sons, \$486.00, rep; Rushmore Office Supply, \$92.17, sup; Sturgis NAPA, \$76.68, rep; Wells Plumbing, \$82.40, rep.

**SANITATION** – A&B Welding, \$85.86, rep; Black Hills Energy, \$40.20, util; Campbell Supply, \$227.99, sup; CBH, \$1,620.55, sup; City of Belle Fourche, \$21,627.87, other; Dakota Extinguisher & Safety, \$434.00, sup; First Interstate Bank MasterCard, \$119.77, rep; KT Connections, \$67.93, prof fee; Kieffer Sanitation, \$1,026.00, other; Owen's Interstate Sales, \$340.51, sup; Powerplan, \$106.65, rep; Richter's Tire & Exhaust, \$12.00, sup; Rushmore Office Supply, \$92.17, sup; Sturgis NAPA, \$284.04, rep.

**AMBULANCE** – Alkali Community Hall, \$62.67, util; Arrow International, \$1,111.29, sup; Black Hills energy, \$593.22, util; CBH, \$1,461.66, sup; Century Business Products, \$318.32, prof fee; Coca Cola, \$48.04, sup; Emergency Medical Products, \$124.32, sup; First Interstate Bank MasterCard, \$1,866.16, sup; Ft Meade VA Hospital, \$525.00, refund; Nellie Isaacs, \$192.50, travel; KT Connections, \$67.93, prof fee; Kreislers, \$7.32, sup; Lynn's Dakotamart, \$172.37, sup; MDU, \$43.27, util; Pizza Hut, \$113.00, sup; Scott Peterson Motors, \$1,320.28, rep; Spearfish Ambulance Service, \$55.00, prof fee; Kristin Spencer, \$1,696.40, prof fee; Sturgis NAPA, \$303.77, sup; Trugreen, \$92.15, sup; Vast Business, \$139.75, util; Weimer's Diner & Donuts, \$15.80, sup;

Motion by Waterland, second by Anderson and carried with all members present voting yes to approve an On-Off Sale Wine License for Moyle Petroleum dba Common Cents at 2421 Junction.

Motion by Martin, second by Waterland and carried with Carstensen, Anderson, Keszler, Martin, Martinson and Waterland voting yes, Bachand and Dargatz voting no, Bradley abstaining, to approve a special events license for Key City Enterprises-Knuckle Saloon at Indian Motorcycle, 2130 Main, during the rally on August 5-13, 2016. Staff will check on the fees to see if they are correct.

Motion by Bradley, second by Martinson and carried with all members present voting yes to go into executive session for legal at 7:08 pm.

Motion by Dargatz, second by Martin and carried with all members present voting yes to return to regular session at 7:32 pm.

Motion by Martin, second by Martinson and carried with Carstensen, Anderson, Keszler, Martin, Martinson and Waterland voting yes, Bachand and Dargatz voting no, Bradley abstaining, to approve a special events license for the Loud American for Prime Time Grill at Lynn's Dakotamart lot area at 1111 Lazelle on August 5-13, 2016. Staff will check on the fees to see if they are correct.

Motion by Waterland, second by Martin and carried with Carstensen, Anderson, Bachand, Keszler, Martin, Martinson and Waterland voting yes, Dargatz voting no, Bradley abstaining, to approve a special events license subject to the fees being correct for The Knuckle Saloon at Samson Corner, 1544 Lazelle for Steel Rodeo-Jesse Rooke Custom Bike Build Off & Bike Show on August 5<sup>th</sup> and 6<sup>th</sup> and the Sturgis Liquor Store at 1075 Lazelle Street on August 5-13, 2016.

Motion by Waterland, second by Anderson and carried with Carstensen, Anderson, Keszler, Martin, Martinson and Waterland voting yes, Bachand and Dargatz voting no, Bradley abstaining, to approve a special events license for The Knuckle Saloon at the Sturgis Community Center Lot for the Harley Davidson Expo Lot on August 5-13, 2016.

Motion by Martin, second by Anderson and carried with Carstensen, Anderson, Keszler, Martin, Martinson and Waterland voting yes, Bachand voting no, Bradley and Dargatz abstaining, to approve a special events license for the Oasis Bar & Fireside Lounge at Harley Davidson Rally Point during the Rally on August 5-13, 2016. Staff will check on the fees to see if they are correct.

Motion by Waterland, second by Bradley and carried with all members present voting yes to approve second reading of Ordinance 2016-04 – Annual Appropriations.

## **ORDINANCE 2016-04**

### **AN ORDINANCE AMENDING ORDINANCE NO. 2015-09 ANNUAL APPROPRIATIONS FOR THE YEAR 2016 OF THE CITY OF STURGIS, MEADE COUNTY, SOUTH DAKOTA**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota, that ordinance 2015-09 is amended so that the following amounts are hereby appropriated to meet the obligation of the municipality for the year 2016.

<b>General Fund</b>	101	
<b>Mayor and Council</b>		
4111-4220 Prof. Fees		\$6,000
<b>Planning and Permitting</b>		
4196-4260 – Supplies & Materials (Software)		\$24,000
<b>Sponsorship</b>		
4198-42400 – Rental		\$200,000
<b>Rally</b>		
4199 - 4340– Machinery & Equipment		\$38,000
<b>Dispatch</b>		
4218-4290 – Other (Software)		\$60,000
<b>Airport</b>		

4350-4220 – Prof. Fees	\$6,000
<b>Total for General Fund</b>	<b>\$334,000</b>
Source of Funding: Unappropriated cash and additional new revenue	
<b>Special Sales Tax - 211</b>	
9000-4651 – Industrial Development (SEDC)	\$18,000
Source of Funding: Unappropriated cash balance	
<b>TIF #11 – SPM – 329</b>	
9000-42900 – Other/Anna Street Project	\$400,000
Source of Funding – TIF monies	
<b>TIF #13 – Canyon View – 331</b>	
9000-42900 – Other/Pine View Project	\$145,184
Source of Funding – TIF monies	

Adopted this 20<sup>th</sup> day of June, 2016.

First reading: 06/06/2016  
Second reading: 06/20/2016  
Adopted: 06/20/2016  
Published: 07/11/2016  
Effective: 07/11/2016

Motion by Bradley, second by Waterland and carried with Carstensen, Anderson, Bradley, Dargatz, Keszler, Martin, Martinson and Waterland voting yes, Bachand voting no, to approve second reading of Ordinance 2016-05 – Health & Sanitation.

## **ORDINANCE 2016-05**

### **AN ORDINANCE AMENDING TITLE 11–HEALTH AND SANITATION**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 11 –Health and Sanitation –Chapter 11.04 – Collection and Disposal of Garbage and Rubbish – Section 11.04.03 - Rates; Section 11.04.07 – Illegal Disposal of Waste. Chapter 11.05 – Sewers – 11.05.35 – Appeal Process. Chapters 11.06- Regulation of Tattoo Parlors – Sections 11.06.01 – Definitions; Section 11.06.02- License required for all Tattoo and Body Piercing Artists; Section 11.06.03 – Adoption of State Statutes and Regulations; Section 11.06.05- Fee for Tattoo and Body Piercing License and Inspection; 11.06.06 – Duration of Tattoo and Body Piercing License; 11.06.07 – Health Inspection of the Proposed Premises of a Tattoo and Body Piercing Licensee; 11.06.08 – Change of Location of Tattoo and Body Piercing Licensee; 11.06.09 – Issuance, Denial, Suspension and/or Revocation of Tattoo and Body Piercing Licenses; 11.06.11 – Transfer Prohibited of Tattoo and Body Piercing License; 11.06.12 – Posting of Tattoo and Body Piercing License; 11.06.13 – Refund of License Fee; 11.06.14 – Required Documentation of Activities; 11.06.15 – Penalties. Chapter 11.07 - Chapter Deleted be amended to read as follows:

## **TITLE 11 HEALTH AND SANITATION**

Chapters:  
11.01: General Provisions  
11.02: Health Officer

- 11.03: Rubble Site and Dumping
- 11.04: Collection and Disposal of Garbage and Rubbish
- 11.05: Sewers
- 11.06: Regulation of Tattoo Parlors
- ~~11.07: Regulation of Body Piercing Establishments~~

## **Chapter 11.04**

### **COLLECTION AND DISPOSAL OF GARBAGE AND RUBBISH**

#### **SECTIONS:**

- 11.04.01: Council May adopt System for Collection and Disposal
- 11.04.02: City Collection System
- 11.04.03: Rates
- 11.04.04: Council Authority over Rates
- 11.04.05: Billing and Failure to Pay
- 11.04.06: Container Regulations
- 11.04.07: Illegal Disposal of Waste
- 11.04.08: Placement of Garbage Cans and Rubbish
- 11.04.09: Accumulation of Garbage and Rubbish
- 11.04.10: Compulsory and Universal System
- 11.04.11: Hazardous or Toxic Waste not to be placed in Any Container for Collection
- 11.04.12: Special Event Sanitation Fee
- 11.04.13: Billing and Failure to Pay
- 11.04.14: Appeal Process

#### **11.04.03: RATES**

It is hereby determined that the following are reasonable and necessary charges to be levied, imposed and collected for said garbage and rubbish collection and disposal in order to provide proper sanitary control within the City.

Each new residential property within the City limits shall have a one-time charge of \$100 for a 90 gallon garbage tote. Each new commercial property within the City limits shall have a one-time charge of \$335 for a 300 gallon tote. This is for the initial garbage container, after which if the garbage tote gets accidentally damaged the City shall replace the garbage tote with another container of the same size.

Each such garbage container unit in the City, regardless of the amount of garbage and rubbish placed inside for disposal, there shall be per month fee charged for the collection and disposal of garbage and rubbish provided pursuant to this Chapter. For each address within the City there shall be a separate minimum monthly fee charged for garbage service. In addition, when a garbage only service account is opened, a deposit fee of \$25.00 shall be paid by the account owner.

Additional pick up service beyond the curbside household garbage tote pickup may be provided by the City. The City reserves the right to charge rates in excess of the rate classification on an individual basis, depending on the volume of refuse, the difficulty of collection of the refuse and the containers used by the commercial unit for storage of refuse prior to collection. A separate recycling fee may also be charged for a residential account and a commercial unit for the purpose of providing the recycling units at selected locations within the city.

The service and deposit fees shall be reviewed annually by the City Council during the budget ordinance approval process. After the council has passed the annual budget ordinance, it shall also adopt a resolution establishing the garbage and rubbish rates required to meet the revenue projections required for the budget ordinance.

Additional pick up service beyond the curbside household garbage tote pickup may be provided by the City. In the event such service is provided, the City may charge a fee commensurate to the costs associated with the service.

The City reserves the right to charge rates in excess of the rate classification on an individual basis, depending on the volume of refuse, the difficulty of collection of the refuse and the containers used by the commercial unit for storage of refuse prior to collection.

Each multi-family unit or apartment house fees, will be included in the yearly rate resolution. The owner of the multi-family unit shall be responsible for paying the charges for the whole unit.

The Council may by resolution annually approve an additional voluntary recycling fee or reduction to fund a curbside recycling program. Such a fee would be charged on a voluntary basis to pay for the additional curbside recycling service if and when the City offers such a program.

#### **11.04.07: ILLEGAL DISPOSAL OF WASTE**

It is unlawful and a violation of Title 11 for any person may dump, deposit, drop, throw, discard, leave, or to cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of garbage, solid waste, garbage, litter or other waste material as defined in this Title, upon any public or private property in the city, or upon or into any river, lake, pond, or other stream or body of water in this city, except as follows:

- (1) The waste material is placed into a receptacle or other container, intended by the owner or tenant in lawful possession of the property on which the receptacle/container is located, for the deposit of garbage, solid waste, litter or other waste material by the person placing it in the container, or
- (2) The owner or tenant in lawful possession of the property on which the receptacle/container is located has given consent to the person to deposit such garbage, solid waste or litter or other waste material into the receptacle/container on the property for that purpose, or has otherwise authorized the person to deposit or leave said garbage, solid waste litter or other waste material on the property, or
- (3) the person leaving the garbage, solid waste litter or other waste material as defined in this Title has first obtained the consent of the owner or tenant in lawful possession, or unless the act is done under the personal direction of the owner or tenant and does not create a public health or safety hazard, a public nuisance or a fire hazard.

### **Chapter 11.05 SEWERS**

#### **SECTIONS:**

#### **11.05.35: APPEAL PROCESS**

~~Any person aggrieved by a decision of the Public Works Director made under this Chapter shall be entitled to have said decision reviewed by the Public Works Director. If after review the said person is unsatisfied, he or she may appeal the decision to the City Manager and then to the City Council in the manner for an Appeal as established in Title 36.~~

An appeal from any of the provisions of Chapter 11.05 shall follow the process set forth at subsection 11.04.13 of this Title.

## **CHAPTER 11.06 REGULATION OF TATTOO ARTISTS**

### **SECTIONS:**

- 11.06.01: Definitions
- 11.06.02: License required for all Tattoo and Body Piercing Artists
- 11.06.03: Adoption of State Statutes and Regulations
- 11.06.04: Application for Tattoo and Body Piercing License
- 11.06.05: Fee for Tattoo and Body Piercing License and Inspection
- 11.06.06: Duration of Tattoo and Boding Piercing License
- 11.06.07: Health Inspection of the Proposed Premises of a Tattoo and Body Piercing Licensee
- 11.06.08: Change of Location of Tattoo and Body Piercing Licensee
- 11.06.09: Issuance, Denial, Suspension and/or Revocation of Tattoo and Body Piercing Licenses
- 11.06.10: Injunctive Relief
- 11.06.11: Transfer Prohibited of Tattoo and Body Piercing License
- 11.06.12: Posting of Tattoo and Body Piercing License
- 11.06.13: Refund of License Fee
- 11.06.14: Required Documentation of Activities
- 11.06.15: Penalties

### **11.06.01: DEFINITIONS**

- A. TATTOO ARTIST: Any person or individual who performs tattoos, body piercing and/or any other form of permanent body art. (This definition does not include physicians and surgeons licensed under the provisions of SDCL 36-4 from performing tattoos, body piercing and any other form of permanent body art.)
- B. TATTOO: to make permanent marks or designs on the skin by puncturing it and inserting indelible colors.
- C. BODY PIERCING: to place a permanent or temporary foreign object in a person's body such as ears, nose, lips, genitals, nipples, or parts thereof for a decorative or other nonmedical purpose

### **11.06.02: LICENSE REQUIRED FOR ALL TATTOO AND BODY PIERCING ARTISTS**

As authorized by SDCL 9-34-17, No person shall engage in, conduct or carry on, or permit to be engaged in, conducted or carried on, in or upon any premises within the City the performance of tattoo, body piercing and/or other forms of permanent body art without a valid Tattoo and Body Piercing License, which has been issued by the City of Sturgis in each calendar year. Applications shall be available at City Hall and shall be completed in full and returned to the Finance Office accompanied by the appropriate fee.

### **11.06.03: ADOPTION OF STATE STATUTES AND REGULATIONS**

The standards set forth in SDCL 9-34-17 and state Administrative Rules Article 44-12 shall constitute the standards for tattooing and body piercing and the conditions for the premises on



which such services are provided within the City. Further, all artists must comply with all federal Food and Drug Administration (FDA) recalls (even those identified as “voluntary” by the FDA). A health inspection provided by a designated or authorized City employee or agent shall determine compliance with these standards.

#### **11.06.04: APPLICATION FOR TATTOO AND BODY PIERCING LICENSE**

Each application for a Tattoo and Body Piercing License shall be upon a form provided by the Finance Office and shall be submitted to the Finance Office. The application shall contain, at a minimum, the following information:

- (a) Definition of services to be provided by the applicant;
- (b) The location within City of Sturgis that the applicant will use;
- (c) The dimension of the space the applicant will use;
- (d) The current mailing address of the applicant;
- (e) The current phone number and email address for the applicant;
- (f) Written affidavit that the applicant is over the age of 18 years;
- (g) A current picture of the applicant; and
- (h) The history of the applicant in the performance of tattoos, body piercing and/or other permanent body art.

#### **11.06.05: FEE FOR TATTOO AND BODY PIERCING LICENSE AND INSPECTION**

The applicant shall submit payment for licensing and inspection at the time of application. The licensing fee for each individual operator is \$560.00 and the inspection fee is \$100.00 per annual application or to reinstate a Tattoo and Body Piercing License after cancellation or termination. A re-inspection fee, within that calendar year for any change in premises, shall be \$100.00 per premises.

This licensing and inspection fee is in place of any Special Sanitation fees charged during the annual Sturgis Motorcycle Rally.

#### **11.06.06: DURATION OF TATTOO AND BODY PIERCING LICENSE**

The Tattoo and Body Piercing License is valid for the calendar year. All Tattoo and Body Piercing License expire on December 31<sup>st</sup> of the-calendar year of issuance. There is no reduction of the license fee charge regardless of when a license may be approved. There is no refund of licensing and inspection fees for terminating business prior to December 31<sup>st</sup>. The City makes no distinction between license and inspection fees required for tattoo artists and/or body piercers.

#### **11.06.07: HEALTH INSPECTION OF THE PROPOSED PREMISES OF A TATTOO AND BODY PIERCING LICENSEE**

Within three business days of application, the City of Sturgis shall make an inspection of the space proposed to be used by the tattoo artist for compliance with 11.06.03 of this chapter.

City officials may also enter the premise from time to time during regular business hours for the purpose of making reasonable inspections to enforce on-going compliance with health regulations. This shall not restrict or limit the right of entry vested in any law enforcement agency or the City Building Inspector.

Any inspection may be conducted by the State of South Dakota at the request of the City.

#### **11.06.08: CHANGE OF LOCATION OF TATTOO AND BODY PIERCING LICENSEE**

A change of location of a licensed tattoo or body piercing licensee (even within the same building) may be allowed by the City provided that the applicant for the change in location has paid all required license and inspection fees and the proposed area of operation meets all requirements for a licensed premises.

#### **11.06.09: ISSUANCE, DENIAL, SUSPENSION AND/OR REVOCATION OF TATTOO AND BODY PIERCING LICENSE**

The City of Sturgis shall make a final determination regarding the tattoo or body piercing artist's application within two days of inspection.

The City of Sturgis shall not issue the tattoo or body piercing artist a License if, based upon the inspection, it is found that:

- (a) The premise where the tattoo artist proposes to use would not comply with all applicable laws; or
- (b) The applicant has made any false, misleading or fraudulent statement of fact in the permit application or any other document required by the City in conjunction herewith.

Any Tattoo and Body Piercing License is subject to suspension or revocation by City officials for violation of any provision of this chapter, or applicable provision of Code, city ordinance, rule or regulation or state law, or for grounds that should warrant the denial of the issuance of the Tattoo and Body Piercing License in the first instance, or for the violation of any law relating to or regulating tattoo or body piercing licensee artists.

The remedy for a denial, suspension or revocation of a Tattoo and Body Piercing License shall follow the appeal process set for in Title 36.

#### **11.06.10: INJUNCTIVE RELIEF**

In addition to the legal remedies provided for in this chapter and in Title 36, the operation of any tattoo artist in violation of the terms of this chapter shall be deemed a public nuisance as described by Title 12.

#### **11.06.11: TRANSFER PROHIBITED OF TATTOO AND BODY PIERCING LICENSE**

No Tattoo and Body Piercing License shall be transferable.

#### **11.06.12: POSTING OF TATTOO AND BODY PIERCING LICENSE**

Each tattoo or body piercing licensee shall post, in a conspicuous place with the premise, the current Tattoo and Body Piercing License and a copy of the most recent inspection results.

**11.06.13: REFUND OF LICENSE FEE:**

A tattoo or body piercing applicant that has successfully passed the inspection of licensed premises and been issued a license under this chapter, may apply for a refund of \$560 of the license fee required by subsection 11.06.05 above. To obtain a refund, the licensee shall submit documentation and information in a manner established by the City Finance Office. To be considered, the application for License refund shall be submitted to the City Finance Office between October 1 and October 15 of the year in which the license was purchased. The application shall include all documentation as required by the City Finance Office to prove payment of South Dakota municipal sales tax within the City as follows:

- 1) Copies of applicant's South Dakota sales tax returns and any additional documents as required by City Finance Office staff verifying that applicant has paid aggregate municipal sales tax for sales at the licensed premises, between January 1<sup>st</sup> and July 31<sup>st</sup> of the calendar year for which the license was purchased, of at least \$560.00 on sales of at least \$28,000.
- 2) Verification by applicant that it operates at the licensed premises in all other respects in compliance with all state and federal laws and local ordinances,

Upon proof satisfactory to City Finance Office staff of compliance with the foregoing requirements, the refund application will be approved for consideration by the Council at a later regularly scheduled meeting. Upon approval of a refund by the Council, it shall be sent to the licensee as the business address shown on the license documents.

**11.06.14: REQUIRED DOCUMENTATION OF ACTIVITIES**

It is the responsibility of every licensee under this chapter to maintain the necessary records to comply with the minimum state requirements and municipal ordinances for ~~of~~ sales tax reporting as applied to any business or retailer as defined by SDCL 10-45-1, or any other sales tax licensee. Evidence and documents to show proof of compliance with these requirements shall be provided by the retailer, business operator or licensee immediately upon the request of ~~to~~ any authorized representatives of the South Dakota Department of Revenue, any law enforcement officer, or any municipal official appointed by the City Manager for enforcement of this Title. The records required to be maintained are the following:

- a) Sales receipts that are sequentially numbered with duplicate copies, recorded during or immediately upon completion of each transaction, in the form of cash register tape, written or printed credit card receipts, or hand written sales receipts that identify the item sold, the sale price, the tax charged and the time and date of the transaction for a minimum of three years. The licensee shall provide such receipts for immediate inspection and review to any representative of the Department of Revenue, law enforcement officer or authorized agent of the City, upon request.
- b) Inventory records, including a statement of beginning inventory of merchandise value, for a minimum of three years preceding the date of inspection of the licensee's transaction record, consistent with the requirements of SDCL 10-45-85. The licensee shall provide such records for immediate inspection and review to any representative of the Department of Revenue, law enforcement officer or authorized agent of the City, upon request.
- c) A written list of suppliers, including names, addresses and phone numbers of the supplier, for all suppliers used by the licensee for the three years preceding the date of inspection of the supplier list, consistent with the requirements of SDCL 10-45-87. The licensee shall provide such records for immediate inspection and review to any

representative of the Department of Revenue, law enforcement officer or authorized agent of the City, upon request.

### **11.06.15: PENALTIES**

A violation of any provisions of this chapter shall be subject to the penalties set for at subsection 11.02.03 above, or in the alternative to those, penalties as laid out in Title 36 for violation of City ordinance.

## **~~CHAPTER 11.07~~**

### **~~REGULATION OF BODY PIERCING ESTABLISHMENTS~~**

#### **~~SECTIONS:~~**

~~11.07.01: Permit Required~~

~~11.07.02: Adoption of State Statute and Regulations~~

~~11.07.03: Assistance of Department of Health~~

#### **~~11.07.01: LICENSE PERMIT REQUIRED~~**

~~No person shall operate or maintain a temporary or permanent place of business which performs body piercing on the human body in the City without first having applied for and obtained a Sturgis license as required by this Title and remaining in compliance with all the requirements set forth in Section 11.06.02 through 11.06.07 of this Title.~~

#### **~~11.07.02: ADOPTION OF STATE STATUTES AND REGULATIONS~~**

~~The standards set forth in SDCL 9-34-17 and ARSD 44-12-02 shall constitute the standards for body piercing within the City of Sturgis.~~

#### **~~11.07.03: ASSISTANCE OF DEPARTMENT OF HEALTH~~**

~~The City may enlist the assistance of the South Dakota Department of Health to ensure that all provisions of this Chapter are being followed.~~

Dated this 20th day of June, 2016.

First reading: 06-06-16

Second reading: 06-20-2016

Adopted: 06-20-2016

Published: 07-11-2016

Effective: 07-11-2016

Any other business:

- Councilor Martin announced that he will be vacating his Council seat on July 5<sup>th</sup>. He and his family will be moving to Rapid City.
- Councilor Bachand had a complaint from Cliff Roper about the fees the City charges to advertise for Rally housing on the City website.
- The Mayor reminded staff that we need off premise signage with the upcoming Main Street construction.
- The City will be accepting applications to fill the vacated seat of Councilor Martin. The applications will be due June 29 by 4:00 pm. The Council will select the person on July 5<sup>th</sup> and the person will be sworn in on July 18<sup>th</sup>.

Motion by Waterland, second by Dargatz and carried with all members present voting yes to go into executive session for personnel at 7:59 pm.

Motion by Martin, second by Keszler and carried with all members present voting yes to return to regular session at 8:30 pm.

Motion by Waterland, seconded by Martin and carried with all members present voting yes to adjourn the meeting at 8:30 pm.

ATTEST: \_\_\_\_\_  
Fay Bueno, Finance Officer

APPROVED \_\_\_\_\_  
Mark Carstensen, Mayor

Published once at the total approximate cost of \$